Gr Brit. Colonial Office
Gov. Doc.
G. B.
Coof

CHURCH AFFAIRS (CANADA AND VICTORIA).

RETURN to an Address of the Honourable The House of Commons, dated 13 March 1856;—*for*,

"COPIES or EXTRACTS of Recent CORRESPONDENCE on COLONIAL CHURCH AFFAIRS, in the Dioceses of the Colonies of *Canada* and *Victoria*."

Colonial Office, Downing-street, 1 April 1856.

JOHN BALL.

CANADA.

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—No. 1.—

No. 1.
Bishop of Toronto to Sir G. Grey, Bart.
20 January 1855.

COPY of a LETTER from the Bishop of *Toronto* to the Right Honourable Sir *George Grey*, Bart.

Toronto, Canada, 20 January 1855.
(Received, 6 February 1855.)

Sir,

I HAVE the honour to submit for your Excellency's consideration, and Her Majesty's Government, a memorial addressed to me by the clergy and laity of the western section of this extensive diocese.

On the 5th of October 1850, I presented a memorial to the Most Reverend and Right Reverend the Archbishops and Bishops forming the Committee appointed to arrange measures in concert with Her Majesty's Government, for the erection and endowment of additional bishops in the colonies and dependencies of Great Britain, praying that the diocese of Toronto might be beneficially divided into three distinct sees, and ulitmately a fourth see, to superintend the Indian missions, and those of the white population on the banks of the great Canadian lakes.

No steps having been taken towards the accomplishment of the object prayed for, I renewed my application, with additional reasons, on the 5th of February 1853; and enclosed copies of the two memorials to his Grace the Duke of Newcastle, then Secretary for the Colonies.

His Grace was pleased to state in reply, "that Her Majesty's Government will be prepared to countenance whatever plan may be resolved on by the members of the Church of England in Canada itself, for the subdivision of the diocese of Toronto." Letter, dated 4 April 1853.

The Archbishop of Canterbury, with whom I have been also in communication on the subject, in a letter dated the 10th February 1854, says, "I can assure your Lordship that the measure of dividing your extensive diocese is seen here in the same light as by yourselves, and the only difficulty in the way, is the want of an adequate endowment for a second bishop."

Although this appears to be the sole obstacle to the subdivision of the diocese, I saw no chance of its being removed by any assistance from a distance; I therefore bethought myself of trying what might be done here. Accordingly on the 10th of January 1854, I addressed a pastoral letter to the clergy and laity of the diocese, recommending the creation of an Episcopal Endowment Fund, to provide for the support of the new bishops, on condition of being allowed to choose them from among our own clergy.

Encouraging progress has been made in the different sections of the diocese proposed as the new sees, and more especially in the western section, in which

CANADA.

the subscriptions already amount to nearly 10,000*l.*, and will soon reach the maximum 12,500*l.*, which is considered at present sufficient for the endowment of a bishopric, because at 6 per cent., our legal interest, it would yield 750*l.* per annum. Hence, should the privilege be granted by Her Majesty to the synod of each diocese to elect their own bishop, we may soon have one for the western district of this diocese, and the others will rapidly follow.

Nor will this boon seem unreasonable, when the present position of the Church in Canada is tenderly considered.

The Church has just been deprived of all her property by the Provincial Legislature, merely leaving to her clergy their stipends and allowances, during their natural lives and incumbencies, but without the slightest means at her disposal to extend her limits, or to fill up the vacancies which will be daily occurring; she therefore requires to be made as complete as possible within herself, in all her arrangements, even to preserve her existence, and this can only be effected by uniting her clergy and laity in synodical action. Seeing this state of things approaching, I have held two synods, the first in October 1853, and the second in October 1854. I have the honour to enclose a printed copy* of the proceedings of each, for your Excellency's information, and I am happy to state that they have met with the general and cordial approbation of our Church in all parts of the world.

The subdivision of the diocese was taken up on both occasions, and it was felt on all sides that it presented labour enough for three instead of one bishop, and is yearly becoming more and more beyond the strength of any individual.

From what the Duke of Newcastle says in his letter, as quoted above, we are encouraged to believe, that if the Church in Canada undertakes to support her own bishops, Her Majesty's Government would think it but reasonable to permit them to be chosen by her synods from among her own clergy; men who have served long in the colony, and are acquainted from experience with the hardships and difficulties of missionary life, as well as the more urgent wants of a colonial diocese. All appointments, with the exception of the Governor-general, are now made in the province, and we do not anticipate that the boon we pray for, which is so necessary to the extension and prosperity of the Church, will be any longer withheld.

I have &c.
(signed) *John Toronto.*

Enclosure in No. 1.

London, Canada West, 30 December 1854.

Encl. in No. 1.

At a meeting of the Committee of General Management for the Rural Deanery of London, convened for the purpose of ascertaining the amount of subscriptions obtained towards an Episcopal Fund for the Western Section of the Diocese of Toronto, the following Address to the Lord Bishop of Toronto, was adopted.

To the Honourable and Right Reverend the Lord Bishop of Toronto:

May it please your Lordship,—We, the Committee of General Management for the Rural Deanery of London, beg leave to report for your Lordship's information, that the subscription set on foot, in accordance with your Lordship's instructions, in order to provide a fund for the maintenance of a bishop in the western section of the diocese of Toronto, has met with a very encouraging measure of success in every place where an appeal has been made to the members of the Church.

That we rejoice in being able to state to your Lordship, that the sum now actually subscribed amounts to nearly 10,000*l.*; and we do not hesitate to state our conviction, that in a very short time a sum sufficient to produce 750*l.* per annum will be subscribed, as there are several important places within the limits of the proposed new diocese which have not yet been appealed to for this object.

In the meantime, it is respectfully submitted to your Lordship that by the terms of the subscription list, all subscriptions are to be paid or secured to the fund on the 1st day of January 1855. But the Committee will not be in a position to call upon the members of our Church to pay, or to secure the several amounts subscribed by them, until the condition suggested by your Lordship, and embodied in the heading of the subscription lists, namely, "That the clergy and lay delegates within the limits of the proposed new diocese shall be allowed to elect their own bishops," shall have been formally sanctioned by the authorities at home.

We,

* Pamphlets, intitled, "Triennial Visitation of the Lord Bishop of Toronto, and Proceedings of the Church Synod of the Diocese of Toronto.—October 12th, 13th, 1853, and October 25th, 26th and 27th, 1854."—Published by Henry Rowsell, King-street, Toronto.

We, therefore, most respectfully pray your Lordship to take such steps as you may deem expedient, in order that the division of the diocese, so strongly recommended by your Lordship, may take place, and the sanction of Her Majesty the Queen, to the election of the bishop by the clergy and lay delegates within the limits of the proposed new diocese, may be obtained as soon as possible.

(signed) *Benjamin Cronyn*, M.A.
Rural Dean of London, Canada West, Chairman of the Committee of General Management.

— No. 2. —

(No. 26.)

No. 2.
Governor-Gen. Sir E. Head, Bart., to Lord J. Russell.
31 March 1855.

Copy of a DESPATCH from Governor-General Sir *Edmund Head*, Bart. to the Right Honourable Lord *John Russell*.

Government House, Quebec, 31 March 1855.
(Received, 23 April 1855.)

My Lord

I have the honour to enclose a humble Address to Her Most gracious Majesty, praying for the repeal of such English Statutes as impede the meeting of the clergy and laity of the Church of England in synod, for the purpose of framing rules and canons, and further praying that as the funds for the support of the colonial bishoprics will no longer be derived from England, the choice of the bishops may be left to the clergy and laity of each diocese.

This Address was adopted in the Legislative Council of Canada without a dissentient voice, and in the Legislative Assembly it was carried by a majority of seventy to thirty.

I would further direct your Lordship's attention to the two motions in amendment of the Address set forth in the votes.* The first of these was moved by Mr. William Lyon Mackenzie, and was negatived with a minority of three only in its favour.

The second, moved by Mr. Brown, was in like manner rejected by a large majority.

My own opinion in this matter of the free synodical action sought for on the part of the Church of England, is briefly this:

So long as any connexion, or supposed connexion, between Church and State could be assumed to exist in the colony, such action of the Church in synods or meetings, for the purpose of framing canons and ordinances, was likely to lead to constant misunderstanding with the colonial Legislature. It is unnecessary now to dwell on other difficulties which might have arisen, for the connexion between Church and State is expressly declared to be extinct in Canada, by the recital prefixed to the 3d clause of the "Clergy Reserves Act," assented to by my predecessor (a copy of which Act is enclosed for facility of reference). Under these circumstances, therefore, I do not see how restrictions on the Church of England which do not apply to other bodies, can be defended in argument.

On the subject of the appointment of bishops within the diocese or in the colony itself, I can hardly express any decided opinion. I think that it will not be easy to obtain from the people of the colony the contributions necessary to endow the new dioceses required, unless some such power of nomination be conceded by the Crown. The saving of the rights of the Colonial Legislature which terminates the Address, appears to me sufficient to obviate all fear of jealousy on the part of the temporal authorities; indeed the absence of such jealousy is sufficiently shown by the divisions already referred to as appearing in the votes.

I have, therefore, only to request that your Lordship will be pleased to lay this joint Address at the foot of the Throne, and

I have, &c.
(signed) *Edmund Head.*

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* *See* House of Commons' Paper, No. 276—25th May 1855, "Legal Position of Bishops, Canada."

CANADA.

Enclosure in No. 2.

To the QUEEN's Most Excellent MAJESTY.

Most Gracious Sovereign,

Encl. in No. 2.

WE, your Majesty's dutiful and loyal subjects, the Legislative Council and Commons of Canada, in Provincial Parliament assembled, humbly approach your Majesty, for the purpose of representing that the Legislature of this Province during the present session of the Provincial Parliament has passed an Act by which it is declared that there shall be an entire separation between Church and State in Canada, and that the Clergy Reserve funds and lands shall be appropriated to secular purposes, after providing for the salaries of existing incumbents.

That the members of the United Church of England and Ireland in this Province, are under disadvantages that are felt by no other denomination in the Province, inasmuch as they are unable to meet with their bishops and clergy in synod, in their several dioceses, to frame rules and canons for their own guidance and governance, as large numbers of them conscientiously believe that they are under restrictions from the existence of Imperial Statutes against the holding of such synods; and inasmuch as they are hereafter required to provide for the maintenance of the bishops of their Church, while they are not allowed to have any voice in their selection or appointment; and we, therefore, humbly pray that your Majesty will be graciously pleased to cause a measure to be introduced into the Imperial Parliament during its present session, to remove all obstructions that may exist or be supposed to exist, under any Statute now in force in Great Britain, to prevent the meeting of the bishops, clergy, and laity of the United Church of England and Ireland, in their several dioceses in this Province, in synod, to frame rules and canons for their own guidance and governance, and to enable them to proceed hereafter to the election of their own bishops: provided that such rules and canons are not repugnant to the laws of this Province, nor to any Act or Acts that the Legislature of Canada may hereafter pass in reference thereto.

Legislative Council Chambers,
Friday, 30 March 1855.

(signed) *John Ross*,
Speaker, Legislative Council.

Legislative Assembly Hall, Canada, Quebec,
Thursday, 29 March 1855.

(signed) *L. Y. Sicotte*,
Speaker, Legislative Assembly.

— No. 3. —

No. 3.
Lord J. Russell to Governor-Gen. Sir E. Head, Bart.
4 May 1855.

(No. 3.)

COPY of a DESPATCH from the Right Honourable Lord *John Russell* to Governor-General Sir *Edmund Head*, Bart.

Sir, Downing-street, 4 May 1855.

I HAVE to acknowledge your despatch No. 26 of the 31st March last, enclosing an Address to Her Majesty from the Legislative Council and Commons of Canada in Parliament assembled, praying for the repeal of such English Statutes as impede the meeting of the clergy and laity of the Church of England in synod, and that the choice of the bishops may be left to the clergy and laity of each diocese.

The Address has been laid before Her Majesty, who was pleased to receive the same very graciously, and the subject will receive the earnest and attentive consideration of Her Majesty's Government.

I have, &c.
(signed) *J. Russell.*

— No. 4.—

(No. 37.)

Copy of a DESPATCH from Governor-General Sir *Edmund Head*, Bart., to the Right Honourable Lord *John Russell*.

No. 4.
Governor-Gen. Sir E. Head, Bart., to Lord J. Russell.
26 April 1855.

Government House, Quebec, 26 April 1855.
(Received, 14 May 1855.)

My Lord,

I have the honour to enclose a copy of a letter addressed to me by the three bishops of Quebec, Montreal, and Toronto, expressing their hope that I would recommend to the favourable consideration of Her Majesty's Government, the Resolutions already forwarded with my despatch of the 31st of March last, No. 26.

After what I have said in that despatch, it is unnecessary to add anything more.

I have, &c.
(signed) *Edmund Head.*

Enclosure in No. 4.

May it please your Excellency,

Province of Canada, April 1855.

We the undersigned, being bishops of the United Church of England and Ireland in the Province of Canada, referring to the effect of the Act for the secularization of the Clergy Reserves, and other public measures, which place that Church in Canada under the necessity of looking to her people for the maintanance and perpetuation among them, of the faith received from their fathers, desire to approach your Excellency with the expression of our full confidence that you will be ready to afford us your assistance in whatever may, in the judgment of your Excellency, tend to facilitate the attainment of those all-important objects to which we have adverted. Encl. in No. 4.

We, therefore, earnestly hope that, since the successful working of our system is made dependent upon the local efforts of the Church and the active co-operation of the laity of her communion, your Excellency will be pleased to recommend to the favourable attention of Her Majesty's Government in England, the addresses from the two Houses, respectively, of the Provincial Parliament, based upon the resolution of the Honourable J. Hillyard Cameron, of which a copy is herewith enclosed, in so far as the said resolution relates to the removal of obstructions to the synodical action of the Church within the colony.

We have, &c.
(sgned) *G. J. Quebec.*
John Toronto.
F. Montreal.

Resolution.

To be moved by Honourable Mr. *Cameron*, on Thursday, the 29th of March.

To resolve,—That an humble address be presented to Her Majesty, informing Her Majesty that the Legislature of this Province, during the present Session of the Provincial Parliament, has passed an Act by which it is declared that there shall be an entire separation between Church and State in Canada, and that the Clergy Reserve funds and lands shall be appropriated to secular purposes, after providing for the salaries of existing incumbents; that the members of the United Church of England and Ireland in this Province are under disadvantages that are felt by no other denomination in the Province, inasmuch as they are unable to meet with their bishops and clergy in synod in their several dioceses, to frame rules and canons for their own guidance and governance, as large numbers of them conscientiously believe that they are under restrictions from the existence of Imperial Statutes against the holding of such synods, and inasmuch as they are hereafter required to provide for the maintenance of the bishops of their Church, while they are not allowed to have any voice in their selection or appointment, and praying that Her Majesty will be graciously pleased to cause a measure to be introduced into the Imperial Parliament during its present Session, to remove all obstructions that may exist, or be supposed to exist, under any statute now in force in Great Britain, to prevent the meeting of the bishops, clergy and laity of the United Church of England and Ireland in their several dioceses in this Province, in synod, to frame rules and canons for their own guidance and governance, and to enable them to proceed hereafter to the election of their own bishops; provided that such rules and canons are not repugnant to the laws of this Province, nor to any Act or Acts that the Legislature of Canada may hereafter pass in reference thereto.

CANADA.

No. 5.
Lord J. Russell to Governor-Gen. Sir E. Head, Bart., 19 May 1855.

— No. 5. —

(No. 16.)

COPY of a DESPATCH from the Right Honourable Lord *John Russell* to Governor-General Sir *Edmund Head*, Bart.

Sir, Downing-street, 19 May 1855.

I HAVE to acknowledge the receipt of your despatch, No. 37, of the 26th of April last, and to state that the subject to which the joint letter of the Bishops of Quebec, Montreal, and Toronto refers, is now under consideration, and will not fail to engage the careful attention of Her Majesty's Government.

I have, &c.
(signed) *J. Russell.*

— No. 6. —

No. 6.
Right Hon. Sir W. Molesworth to Governor-Gen. Sir E. Head, Bart., 24 Sept. 1855.

(No. 36.)

COPY of a DESPATCH from the Right Honourable Sir *W. Molesworth* to Governor-General Sir *Edmund Head*, Bart.

Sir, Downing-street, 24 September 1855.

WITH reference to Lord J. Russell's despatch of the 4th May last, acknowledging an Address to Her Majesty from the Legislative Council and Commons of Canada in Parliament assembled, praying for the repeal of such English Statutes as impede the meeting of the clergy and laity of the Church of England in synod, and that the choice of the bishop may be left to the clergy and laity of each diocese; I now enclose for your information copy of a letter received from the law advisers of the Crown, to whom the subject of that Address had been referred by his Lordship.

21 August 1855. Law officers' opinion, not printed.

You will perceive from the terms of that letter the difficulties which must necessarily impede Her Majesty's Government in dealing with that subject, regarding as it does the rights and position of members of the Church of England, not in Canada only, but throughout the colonial possessions of the empire.

Her Majesty's Government will, however, not fail to take the whole question into their earnest consideration; and notwithstanding the legal, or rather constitutional, objections adverted to in the letter which I now transmit, I am myself strongly persuaded that the desire for freedom of action and self-government on behalf of the Church of England in Canada, is just and reasonable, for the reasons specified in the Address and in your despatch.

For the present, however, further delay is unavoidable; and as it appears to me that the division of the diocese of Torento is so much desired that it may be very inconvenient to postpone it until the general question is disposed of, I have to inform you that Her Majesty's Government are prepared to take the necessary steps for this purpose whenever required to do so, and that they will recommend to Her Majesty for appointment to the new bishopric such clergyman as you may yourself designate to them, after consulting the bishop and such authorities of the Church of England in the colony as you may think advisable; and taking such precautions as to the sufficiency of the means for endowing such a bishopric as you may judge necessary.

You will have the goodness to communicate a copy of this despatch forthwith on my part to the Bishop of Toronto.

I have, &c.
(signed) *W. Molesworth.*

— No. 7. —

No. 7.
Right Hon. H. Labouchere to Governor-Gen. Sir E. Head, Bart., 15 February 1856.

(No. 39.)

Copy of a DESPATCH from the Right Honourable *H. Labouchere* to Governor-General Sir *Edmund Head*, Bart.

Sir, Downing-street, 15 February 1856.

With reference to Sir William Molesworth's despatch of the 24th September last, transmitting to you copy of a letter from the law advisers of the Crown, explaining the obstacles which exist to compliance with the prayer of the Address of the Legislative Council and Assembly of Canada, that a measure may be introduced into the Imperial Parliament to remove all obstructions that may exist, or be supposed to exist, under any statute now in force in Great Britain to prevent the meeting of the bishops, clergy, and laity of the United Church of England and Ireland in Canada, in synod, for the purposes therein specified; I wish now to communicate to you the result of the further deliberations of Her Majesty's Government on this important and difficult subject.

2. It is undoubtedly plain, from the opinion already communicated to you, that it would be impossible to effect, in a literal manner, the whole of what is prayed for by the Address, without the assistance of Parliament. Nevertheless, Her Majesty's Government have a strong feeling that the difficulties raised by that opinion against adopting the entire recommendation of the Canadian Legislature ought not to be permitted to interfere with the meeting of the clergy and laity, by representative bodies, for the purpose of making rules for the management of church affairs, not having legal force or in the nature of canons, nor contravening any known law of the Church; but binding on those who make them, in the same manner as similar rules, generally speaking, in communities of Christians not established by law. And they are by no means satisfied that, for purposes so simple, any statutable aid is necessary.

3. But there are strong reasons for thinking that if Parliamentary legislation is not strictly necessary, it is highly inexpedient. On the one hand, all parties, as it appears, are anxious to preserve the unity of the Church of England. Even those who most desire the removal of the restrictions under which they conceive themselves to labour, seem to entertain no thought of separation as the final result: and yet it would not be easy to frame a measure, and perhaps still more difficult to obtain the assent of Parliament to such a measure unaltered, which should satisfy the wishes of the Canadian Legislature, and realize the objects contemplated by that body, without effecting at least a partial separation of the colonial and mother church, and encroaching on that supremacy of the Crown, which is at present the substantial bond of union. Unless I have altogether mistaken the spirit by which the members of the Anglican Church in Canada are animated, I greatly doubt whether they would not regret even the accomplishment of their own immediate wishes, if attended with such a permanent result.

4. On the other hand, it would be perhaps hardly less difficult to frame such a measure, even of the merest enabling character, without in some degree compromising the principle which regards legislation on the internal affairs of Canada as belonging to its own legislature, and not that of the empire at large. However guarded the expressions might be, there would be danger of constituting within the Province a kind of corporate body, independent in some respects of the Provincial Legislature itself.

5. Legislation by the Parliament of Canada would be open to neither of these objections. It could not impair the connexion between the Anglican Churches of the Province and the mother country, because any of its provisions, which might involve some seeming and accidental derogation from the supremacy of the Crown, could not be construed as legally operative against those principles of general law, binding throughout the British dominions, on which that supremacy is founded. On the other hand, the Canadian Legislature could, at its discretion, give legal effect to the ordinary proceedings of the proposed synods, so far as necessary; which it would be very difficult for Parliament to do, without infringing on the rights of that Legislature by dealing with a strictly local subject. This seems the more essential, inasmuch as, although the

Canadian Legislature has passed an Act declaring or rather reciting the separation of Church and State in the colony (as I am reminded by that Address); yet those former Canadian Acts, which make provision for the management of the Church's temporalities, are, I believe, still in force. With these the synods ought, no doubt, to be enabled to deal; they could not be so, except either by Parliamentary or Colonial Enactment; and the subject is one which clearly appertains to the latter.

6. It is therefore the wish of Her Majesty's Government that you should recommend the Canadian Legislature to enable the members of the Church of England in the Province to enjoy the freedom sought for, so far as the powers of the Legislature, according to the most reasonable supposition, extend; that is to say, by empowering them to meet in the manner specified in the Address, and to form representative bodies; and giving to the rules which may be framed by such bodies, for the control of Church temporalities, and for the enforcement of discipline, so much of legal force as may be absolutely requisite. I am aware of the advantages which might belong to a scheme under which the binding force of such regulations should be simply voluntary; but the existence of prior legislation on the subjects referred to seems to render this impossible.

7. If such an Act were passed in the Province, and either the operation of the Act itself, or the proceedings of the meetings constituted under it, met with any well-defined obstacles from existing Imperial law, then a difficulty would be clearly raised for removal by the interposition of Parliament here; which cannot be said to be the case so long as the supposed objections are not easy to be understood, much less removed, from their very general nature, founded as they are, only on vague opinion.

8. It would, however, be desirable, if the Act, when framed, was found to contain provisions appearing to you and your advisers to involve substantial difficulty, that you should reserve it for the assent of the Crown.

9. Her Majesty's Government have been the more induced to suggest this course by the fact, that in the colony of Victoria, where similar inconveniences are felt by the members of the Church of England, the Legislature of that province has come to their relief by passing a law of the very nature here indicated. It is intituled, "An Act to enable the Bishops, Clergy, and Laity of the United Church of England and Ireland, in Victoria, to provide for the regulation of the affairs of the said Church;" which it does by empowering the Bishop to convene an assembly of the licensed clergy and laity, and making the acts of such assembly binding on members of the Church as regards their membership, and no farther. The assembly is further empowered to establish a commission for the trial of ecclesiastical offences, but not to impose any penalty except suspension or removal from a benefice, reserving existing rights of appeal to the ecclesiastical authorities at home. This Bill has received the sanction of Her Majesty's assent, after much deliberation, the necessity for which was incurred by the defective character of part of its provisions.

10. With regard to the question raised in the address of the election of bishops, the opinion of the law advisers, already referred to, states very distinctly the objections which exist to effecting this purpose by Parliamentary enactment. Her Majesty's advisers do not the less recognize in the case of a community like that of Canada, the propriety of consulting the wishes of members of the Church of England on this head; and they believe that the practical purpose which it is sought to attain may be secured without the obvious inconveniences attendant on direct legislation for it, if they adopt the course of recommending Her Majesty to be guided, as a general rule, in filling up any vacancy which may occur by such representation as she may receive from the clergy and laity of the diocese duly assembled. I cannot too distinctly disclaim on the part of Her Majesty's Government any intention or desire of placing the Church of England in a privileged or exclusive position in Canada. But they are most anxious to meet the wishes expressed by the provincial Legislature as well as by the Church of England, and to free its members from all unnecessary impediments to their own voluntary internal organization, and thus to put them on an equal footing with other denominations of Christians.

11. I am aware thar an answer is still to be expected from you to that portion of Sir William Molesworth's despatch which relates to the division of the diocese of Toronto; but on the whole I have thought it advisable not to delay my present communication on that account.

12. You will make known the contents of this despatch to the several bishops of the United Church of England and Ireland in Canada.

I have, &c.,
(signed) *H. Labouchere.*

VICTORIA.

—No. 1.—

(No. 8.)

No. 1.
Governor Sir C. Hotham to Sir G. Grey, Bart., 8 January 1855.

Copy of a DESPATCH from Governor Sir *Charles Hotham,* to the Right Honourable Sir *George Grey,* Bart.

Toorac, near Melbourne, 8 January 1855.
(Received 17 March 1855.)

Sir,

I have the honour to transmit a Bill which passed the Legislative Council of this Colony on the 29th November last, but which I have thought proper to reserve for the signification of Her Majesty's pleasure thereon.

This Bill was concerted before I assumed charge of this government, and I therefore forbear expressing any opinion thereon, but simply content myself with transmitting it for the serious and attentive consideration of Her Majesty's Government, and enclose an explanation of the proposed measure furnished by the law officers of the Crown.

I have, &c.
(signed) *Chas. Hotham.*

Enclosure 1, in No. 1.

Encl. 1, in No. 1.

[Reserved for Her Majesty's Approval.]

VICTORIA.

Anno Decimo Octavo Victoræ Reginæ.

An ACT to enable the Bishops, Clergy, and Laity of the United Church of England and Ireland in Victoria to provide for the Regulation of the Affairs of the said Church. (30 November 1854.)

Whereas it is expedient to provide for the regulation and management of the affairs of the United Church of England and Ireland in Victoria: Be it therefore enacted, by his Excellency the Lieutenant-governor of Victoria, by and with the advice and consent of the Legislative Council thereof, as follows:— Preamble.

1. It shall be lawful for any bishop of the United Church of England and Ireland in Victoria to convene an assembly of the licensed clergy and the laity of such Church in his diocese. And the bishop, or in his absence a commissary appointed in writing by him, shall preside in such assembly. Assembly may be convened.

2. Every regulation, act and resolution of such assembly made by the bishop, and the clergy and laity thereat, respecting the affairs of the said Church, including all advowson and right of patronage, shall be binding on every such bishop and his successors, and on the clergy and lay members of the said Church residing within the diocese for which such assembly shall have been convened, and on none other; and on them only so far as such regulation, act, or resolution may concern the position, rights, duties and liabilities of any minister or member of the said United Church, or any person in communion therewith, Regulations of Assembly binding on bishops, clergy, and members of Church.

VICTORIA.

in regard of his ministry, membership, or communion, or may concern the advowson or right of patronage in or management of the property of the said Church: Provided, that no such regulation, act, or resolution shall be valid, except it be made with the concurrence of a majority both of the clergy and of the laity, the votes of the clergy and those of the laity being separately taken, and except it receive the assent of the bishop.

Assembly may establish a Commission.

3. It shall be lawful for any such assembly, by any regulation, act or resolution as aforesaid, to establish a commission for the trial of all ecclesiastical offences, and also to frame rules for the conduct, management, and mode of proceeding in and under such commission, and all such rules from time to time to vary, alter and repeal. And such commission shall be so constituted as such assembly may deem expedient; provided that no such commission, nor any person acting thereunder, shall by virtue of this Act have or exercise any jurisdiction over persons who are not clergymen of the said United Church of England and Ireland: and provided also, that such commission, and the persons acting thereunder, shall report to the bishop within whose diocese any such offence shall occur, their opinion of the matters referred to them, and the penalty which they would recommend to be imposed, which penalty the bishop shall not have the power to exceed.

Powers of Assembly and Commission.

4. It shall not be lawful by any regulation, act, or resolution of any such assembly, nor by the sentence of any commission as aforesaid, or any person acting thereunder, to impose any penalty or disability other than such as may be consequent upon a sentence of suspension from or deprivation of an ecclesiastical office or benefice, or may affect such advowson, right of patronage or property as aforesaid.

Regulations of Assembly not to affect right of appeal, &c.

5. No regulation of any such assembly which shall affect any right of appeal to Her Majesty in Council, or to the Archbishop of Canterbury, or to the metropolitan of the province, or the subordination of the said bishops, clergy and laity to the metropolitan or to the said archbishop, shall be valid unless the consent of the said archbishop or of the said metropolitan thereto be previously or thereafter signified by him under his hand and seal, nor unless such regulation be confirmed by an order of the Archbishop of Canterbury; and no regulation, act or resolution made or passed at any assembly shall be valid, which shall alter or be at variance with the authorised standards of faith and doctrine of the United Church of England and Ireland. or shall alter the oaths, declarations and subscriptions now by law or canon required to be taken, made, and subscribed by persons to be consecrated, ordained, instituted, or licensed within the said Church.

Regulations of Assembly not to be contrary to Act of Council, &c.

6. No regulation, act, or resolution of any such assembly shall be contrary to the statute conferring a Constitution on Victoria, or to any Act of the Legislature of Victoria, or have legal force or validity as against any such Act.

Mode of summoning an Assembly.

7. Where any bishop of the said United Church in Victoria shall see fit to convene an assembly as aforesaid, such bishop shall at such time as to him may seem meet previous to the first assembly in his diocese, summon thereto the clergy, being incumbents, or licensed by the bishop within such diocese, and the lay representatives of the diocese, elected as hereinafter provided, and for electing such representatives, shall require each clergyman instituted or licensed to a separate cure of souls to summon a meeting of the laymen of the Church, of the age of 21 years and upwards, resident within his parish, at such time (within limits which may be prescribed by such bishop), and at such place within the parish or district, as to such clergymen may seem convenient, and every such lay member as aforesaid shall be entitled to vote at such election.

Chairman to be elected, &c.

8. The said meeting, so soon as five persons at the least are assembled, shall proceed to elect a chairman by a majority of those present, and the clergyman may be present and qualified to act as such chairman; and the chairman shall cause a list to be made of those who shall be present, and add thereto the names of any who shall subsequently attend before the proceedings are closed, and shall claim to vote thereat. And every such layman present shall, before taking part or voting at such meeting, sign the following declaration:

> "I, *A.B.*, whose name is hereto subscribed, do declare that I am a Member of the United Church of England and Ireland, and belong to no other religious denomination."

Provided that no person shall be entitled to vote at any such meeting who is known to have impugned the doctrines or discipline of the said Church.

Representatives to be elected.

9. Every such meeting shall choose as a representative one male person who shall have been a communicant of the said Church for at least the term of 12 months preceding the day of such meeting; and if more than 50 and less than 100 persons shall attend and vote, it shall be lawful for such meeting to elect one additional representative, and so for each additional 50 persons attending and voting as aforesaid: Provided that no parish or district shall return more than four such representatives.

Mode of election, &c.

10. In case at any such meeting the number of persons proposed for election exceed the number which the meeting is authorised to elect, the chairman shall take in writing the votes of the qualified persons present, and enumerated as aforesaid, and every such person may give one vote for each of such of the persons proposed, not exceeding the number which the meeting is authorised to elect, as he may think fit, and the chairman shall declare the number of the votes given for each of the persons proposed; and the chairman, if he be not

not a clergyman, shall be entitled to vote at and may be elected by such meeting; and where the votes of two or more persons are equal, the chairman, if he be not a clergyman, may give a double vote, and if he be a clergyman, may give a casting vote for any such person.

Certificate to be given, &c.

11. The chairman shall cause to be delivered to each person elected a certificate of his election, and shall sign the minutes of the meeting in token of their correctness; and unless he be the clergyman of the parish or district, shall forward them to such clergyman, together with all certificates, subscriptions, and lists, which had been laid before the said meeting, and a certificate of the names, callings, and addresses of the persons chosen; and the clergyman shall forward the said documents to the bishop to be laid before the assembly at the meeting thereof.

Declaration to be made.

12. Each lay representative elected as aforesaid shall, before taking part or voting at such assembly, sign and deliver to the president thereof a declaration in the form following:

> "I, *A. B.*, whose name is hereto subscribed, do declare that I am a communicant of the United Church of England and Ireland, and belong to no other religious denomination."

Assembly may make regulations, &c.

13. It shall be lawful for the first or any future assembly as aforesaid to make such regulations, acts, or resolutions as it may deem fit, for altering the constitution of such assembly with respect to the number, election, and qualification of the lay members thereof, the manner in which the votes of the clergy and laity may be taken, and the declarations to be signed by the electors or lay members as aforesaid (provided that every such lay member shall declare himself a communicant of such Church), and also for determining the mode in, and the conditions under which such advowson or right of patronage as aforesaid may be exercised, for the licensing of clergymen by the bishop, for the adjournment and prorogation of such assemblies, and the calling of future assemblies, and the mode of election of the lay members thereof, and every such assembly may repeal, alter, or vary such regulations, acts, or resolutions.

Provision for cases not provided for in regulations, &c.

14. The provisions of this Act in relation to the first convening and holding an assembly in a diocese, and the election of the lay members thereof, shall remain in force and be acted on until the first or any other assembly shall otherwise provide; and in any case not provided for by this Act, or by the regulations for the time being of any assembly, the bishop of the diocese may regulate the convening of any assembly in such diocese, and the form and manner of all proceedings preparatory thereto.

Copy of regulations be transmitted to Archbishop.

15. A copy of the regulations passed at the first assembly of any diocese to be called under this Act, and also of the rules framed for any such commission as aforesaid, and from time to time of any alterations of such regulations and rules, shall be sent by the bishop of such diocese, duly certified under his hand and seal, as testifying his assent thereto, to the Archbishop of Canterbury, and also to the metropolitan; and the said Archbishop may, within six months of his receipt thereof, submit the same, with such observations thereon as he may see fit to make, for the consideration of Her Majesty in Council; and Her Majesty by and with the advice of Her Privy Council, may allow or disallow the same, as to Her Majesty shall seem fit, and the regulations and rules so allowed, and a notification of such regulations and rules as may be disallowed, shall be forthwith transmitted by the Archbishop to the bishop transmitting the same, and shall by such bishop be published in his diocese.

Provisional Acts valid.

16. Any regulation or rule disallowed by Her Majesty as aforesaid, after the notification of the disallowance thereof shall have been received by the bishop, shall cease to be in force; but any act matter, or thing, done under or in accordance with such regulation or rule before such receipt of the notification of the disallowance thereof shall have the same validity and effect as if such regulation or rule had been allowed.

Provincial assemblies.

17. So soon as a province shall have been constituted in Victoria, it shall be lawful for the metropolitan thereof from time to time to convene the bishops thereof, and to require them to convene the members of the several diocesan assemblies, or such representatives of the same as shall hereafter by any such provincial assemblies be determined, at such time and place as he may deem fit, to consider of and determine upon all such matters and things as may concern the affairs of the said church in Victoria; and the said metropolitan shall be the president of every such provincial assembly, and shall always preside therein personally, or by such bishop or bishops of his province as he may appoint his commissary or commissaries, under his hand and seal for that purpose. And the metropolitan and bishops attending such assembly shall sit and vote as one house, and the clergy and lay members shall sit and vote as another house, and no act or resolution shall be valid to which both houses have not assented; and on every division of the house of clergy and lay members, nothing shall be held to be carried by a majority of such house, but that to which a majority both of the clergy and of the laity, voting by dioceses, shall have assented; the vote of the majority of the clergy present and representing each diocese, being taken as the vote of the clergy of such diocese, and the vote of the majority of the laymen present, and representing the laity of each diocese, being taken as the vote of the laity of such diocese; and such provincial assembly may pass rules and regulations for the uniform conduct of and mode of proceeding in all diocesan assemblies, and all rules and regulations so passed shall be valid, subject to such alteration, allowance or disallowance as has been hereinbefore provided with regard to the regulations of diocesan assemblies.

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Royal prerogative not interfered with.

18. Nothing herein contained shall effect the right to nominate or appoint any metropolitan or bishop of the said United Church in Victoria, or any other rights or prerogatives of Her Majesty, save so far as the advowson or right of patronage in Victoria (if any) now vested in Her Majesty may be hereby expresly impaired, diminished, or affected.

Interpretation.

19. In the construction and interpretation of the provisions of this Act the word "bishop" shall include the Metropolitan of the Province with reference to his metropolitan diocese.

Enclosure 2, in No. 1.

Opinion of Law Officers.

Encl. 2, in No. 1.

A Bill to enable the Bishops, Clergy, and Laity of the United Church of England and Ireland in Victoria, to provide for the regulation of the affairs of the said Church, has necessarily been reserved for the signification of Her Majesty's pleasure thereon.

The objects of this measure are, firstly, to relieve the clergy and laity resident in the colony from any disability as to their holding meetings; and, secondly, to confer on the assembly of bishops, clergy, and laity, according to a certain constitution, the power possessed by all other Christian denominations, of managing the affairs of their own Church.

An Act to regulate the affairs of that Church had been passed by the Legislature of New South Wales, and continued in force since its erection into a separate colony. Under the provisions of that enactment, clergymen were practically dependent upon the will of the bishop for their continuance in office—an arrangement obviously opposed to the discipline of the Church of England, and of a temporary and provisional character. The present measure, without taking away from the bishop the powers vested in him, gives to the Church herself the means of altering those powers, subject to Her Majesty's approval.

It is alleged, and justly, as it would seem, that the proposed law will merely place the Church in the same position as other communions unconnected with the State in Great Britain; the latter simply transplanting to the colonies a system of government already framed and adopted by them in their fatherland, and still appropriate to their unaltered position here.

But, in addition to being relieved from the disability alluded to, the Church of England in Victoria required some means of establishing courts similar to those provided for her government and discipline in Great Britain.

The present measure enables her so to do. It follows as closely as possible the Bill introduced by his Grace the Archbishop of Canterbury, and passed by the House of Lords. It has been submitted to, and received the approval of, the members of the Church in Victoria, and met with very slight opposition in the Legislative Council.

Any interference with questions of faith, or matters of doctrine, has been carefully guarded against; undiminished connection with the Church in Great Britain has been ensured; and the Supremacy and Royal Prerogative of Her Majesty, as well as the powers of the See of Canterbury, and of the Metropolitan, have been strictly protected.

The promoters of the measure propose to apply for a law to repeal so much of the local Act, previously referred to, as affects the government of the Church, so soon as the assent of Her Majesty to this Bill has been signified; and the remaining provisions of that and other laws relating to Ecclesiastical Courts, it is intended at the same time to consolidate.

—No. 2.—

No. 2.
Bishop of Melbourne to the Right Hon. H. Labouchere, 12 December 1855.

Copy of a LETTER from the Bishop of *Melbourne* to the Right Honourable *H. Labouchere.*

18, Chester-terrace, Regent's Park,
12 December 1855.

Sir,

In the accompanying Memorial I have stated the grounds upon which I regard the confirmation of the Act of the Victoria Legislature as of the greatest importance to the permanent welfare of the Church of England in that province; and upon which I would venture most earnestly to beg of Her Majesty's Government that they would advise, and take such steps as may be requisite for enabling Her Majesty to give her assent to the Act.

I am sure that you will give this Memorial your careful consideration, and I trust that its statements and reasoning will produce in your mind the conviction, which I myself so strongly feel, of the justice of our cause.

You will observe that the Act does not interfere with any prerogative which the Queen now exercises as Head of the Church in the province of Victoria; nor invests the proposed church assembly with any "legislative" powers which would

would at all affect the relation of the Church in Victoria to the Church in England; and I would take this opportunity of stating, that so far are the members of the Church in my diocese from desiring to become independent of the Church at home, that at the recent conference of 1854, as well as at that of 1851, the feeling both of the clergy and laity was most strongly expressed upon the importance of maintaining the union between them in the most perfect integrity. We should unanimously deprecate any measure which would make a clergyman in Victoria feel that he was not as fully a clergyman of the United Church of England and Ireland there, as he was before he left his native land. We most earnestly wish that Her Majesty may continue to retain her two great prerogatives as Head of the Church, viz.; the appointment of bishops, and the final adjudication upon appeal of all ecclesiastical causes. In these particulars there is not in Victoria, nor, I believe, in Australia, any sympathy with the sentiments expressed by the Legislature of Canada. I cannot but suspect that the feeling of the clergy and laity of the Church in Canada is to be attributed althogether to recent circumstances, and will prove transient only. Upon this, however, I have no business to express any opinion; of the feeling in Victoria I can speak with the most perfect confidence.

As I am shortly about to return to my diocese, you will greatly oblige me if you can inform me at an early period of the views of the Government.

I have, &c.
(signed) *C. Melbourne.*

Enclosure in No. 2.

To the Right Honourable *Henry Labouchere*, Her Majesty's Principal Secretary of State for Colonial Affairs. Encl. in No. 2.

The Memorial of the Right Reverend Charles Lord Bishop of Melbourne.

Showeth,

That your memorialist desires to call the attention of Her Majesty's Government to the subject of a Bill passed in the year 1854 by the Legislative Council of the colony of Victoria, intituled, "An Act to enable the Bishops, Clergy, and Laity of the United Church of England and Ireland in Victoria to provide for the regulation of the affairs of the said Church," which Bill has been reserved by his Excellency the Lieutenant-governor, Sir Charles Hotham, for Her Majesty's approval, and is now under the consideration of Her Majesty's Government.

That the Bill was, in the month of May last, referred by the Government to the law officers of the Crown, who gave their opinion thereon on the 17th August following.

That it appears from such opinion, which was kindly communicated to your memorialist by the late Sir William Molesworth, then Her Majesty's Principal Secretary of State for Colonial Affairs, that the law officers considered that the Bill, in "proposing to constitute an elective general assembly of clerical and lay deputies or representatives invested with general authority over all the affairs of the church, which assembly was to provide for the calling of future assemblies, and to establish an Ecclesiastical Commission Court for the trial of ecclesiastical offences," materially interferes with the ecclesiastical supremacy of the Crown within the colony; but they leave it as "a question of policy for the consideration of Her Majesty's Government," to determine upon the propriety of the measure itself.

That the law officers further express their opinion, that, although, "as regards the meeting of the Legislative assembly of the clergy exclusively, such a meeting might be rendered legal by Royal license, the objections to empowering the laity to elect representatives to sit with the clergy, and to legislate with them upon the affairs of the church (although such objections are rather of a constitutional than of a strictly legal character), could not be removed by the Royal license, and would require legislative enactment on the part of the Imperial Parliament."

The question then is, whether the Government will advise Her Majesty to relinquish her prerogative in ecclesiastical affairs within the colony to the extent involved in her giving her assent to the present Bill, and whether, in the event of its being decided that such assent will not be effectual to the validity of the Bill without the concurrence of the Imperial Parliament, the Government will apply to such Parliament for that concurrence.

To ask Her Majesty's Government to take these steps may seem presumptuous; it is certainly not a thing to be lightly done; but, in case your memorialist should succeed in convincing the Government that the passing of the present Bill (or one to the like effect) is essential to the welfare of the church within the colony, and that the maintenance of the ecclesiastical prerogatives of the Crown, as defined by the law officers, in their complete integrity, will most materially cripple the efficiency, if it do not actually endanger the existence of that branch of the Church, your memorialist ventures to think that neither the Government will be unwilling to advise—nor Her Majesty to consent to—the relinquishment

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of a power, which can no longer be retained without prejudice to the community which it was designed to protect and support.

Your memorialist therefore begs to observe,—

1st. That the existing constitution of the branch of the United Church of England and Ireland situate within the colony of Victoria, is extremely defective and objectionable.

2d. That such constitution cannot be placed on a sound basis except by such means as those provided by the present Bill.

3d. That the Bill does not in fact interfere with any right of the Crown which is in actual exercise, but only with a dormant prerogative, the maintenance of which, though it disable others from acting, does not place the Crown in a position to act itself.

On the first of these three points it is to be noticed, that by the existing local Act regulating the temporal affairs of the Church within the colony, all appointments of ministers therein are subject to the absolute approval and license of the bishop of the diocese, or archbishop of the province; and that the license of any clergyman may be withdrawn or revoked, and his house, glebe, and living taken from him, by such bishop at his pleasure, subject, indeed, to the condition that cause be shown, but without any regular (if any) means of testing its sufficiency or accuracy.

That the constitutional status and rights possessed by the inferior clergy, and by the laity in the mother country, have no existence in the colony, and that the sole, unaided, as well as unfettered, authority vested in the bishop is open to the opposite dangers of leading to oppression or anarchy, accordingly as it may be vested in the hands of an arbitrary, or of an indulgent or timid prelate.

That, to proceed to the second point, the Church of England having no legally recognised position within the colony, the system of ecclesiastical law existing in the mother country, and by which the mutual relations of the several orders of clergy and of the laity are regulated, does not admit of being applied to the members of the Church there.

That it is certain that neither the Imperial Legislature nor the Legislative Council of the colony will undertake to supply the members of the Church of England there with a code of regulations for the management of their affairs.

That consequently such regulations can only be framed by the members of the Church themselves.

That, nevertheless, to make them generally binding upon such members, or upon future bishops, the regulations must be drawn up under an authority given either by the local or the Imperial Legislature.

That, further, it is essential to the efficient accomplishment of the task, and to the general acceptability of the result, that the regulations be drawn up upon the joint deliberation and with the joint concurrence of the clergy and laity, the latter acting (as only they can) by representation, and that, for this purpose, some such elective assembly as that proposed by the Bill, must necessarily be established.

That it is also essential that there should be provisions for convoking, adjourning, and dissolving such assembly from time to time.

That (with regard to the third point), assuming the power of convoking, adjourning, and dissolving assemblies of this description in all parts of Her Majesty's dominions to be an inherent portion of the Royal Prerogative, it is clear that this power could not, in the case of so distant a colony, be exercised by Her Majesty personally, or by the Home Government on her behalf.

That your memorialist submits that it is also clear that the exercise of such prerogative could not, with propriety or safety, be permanently deputed to the Lieutenant-governor of the colony, or to any other local authority, there being no security, nor any reasonable ground to expect that such Governor or other authority will, in all cases, be a member of, or friendly to, the Church of England.

That, consequently, to insist upon the retention of such prerogative, would, in effect, be to prevent such assemblies from being held at all, and in that way to prevent any regulations being made for the better carrying on the affairs of the Church, and to keep the same permanently in its present imperfect and unsatisfactory condition.

Your memorialist would further remark, that, on the other hand, the Bill reserves to the Crown the right to nominate the bishop of the diocese; the only portion of the Royal prerogative, it may be observed, in actual exercise; that it withholds from the proposed assembly the power "to alter or do anything at variance with the authorised standards of faith and doctrine, or to alter the oaths, declarations, or subscriptions," (these including, it will be recollected, the recognition of the supremacy of the Crown, as well as the pledge of allegiance,) "now by law or canon required to be taken, made, or subscribed by persons to be consecrated, ordained, instituted, or licensed within the church;" that, as regards the proposed commission for the trial of ecclesiastical offences, such commission cannot be brought into operation until the rules for its conduct and management, and the mode of proceeding under the same, have been submitted to, and approved by Her Majesty in Council; that any alterations of such rules must, in like manner, have Her Majesty's sanction; that no right of appeal to Her Majesty in Council can be interfered with; and, lastly, that not only the rules for the proposed commission, but, generally, all the regulations which may be passed at the first assembly, and by which necessarily its ordinary course of procedure will be governed, are made to require, in order to their validity, Her Majesty's approbation.

In

In conclusion, your memorialist desires to observe, that the Bill does not, directly or indirectly, affect any member of any other religious body, and that it affects the members of the Church itself so far only as "concerns their position, rights, duties, and liabilities in regard of their ministry, membership, or communion, or the advowson or right of patronage, or management of the property of the Church," and imposes no penalty or disability other than a deprivation of such communion, patronage, or property. That the Bill does not confer upon the proposed assembly of the Church of England greater powers than those which are already, by the constitution of the Churches, and the local enactments recognising the same, enjoyed by the Synod of the Presbyterian Church, and by the Conference of the Wesleyan Methodists; or any powers which your memorialist, and the other members of the Church on behalf of which he pleads, would not gladly see granted to any other religious denomination. That the Bill is the result of a long and careful deliberation by the members of a conference of the clergy and laity of the Church of England in Victoria, convened by your memorialist for the express purpose, and that the provisions of such Bill have received the almost unanimous concurrence of the laity as well as of the clergy within the colony. That, consequently, the disallowance of such Bill, should it unhappily be disallowed (which your memorialist prays the Almighty it may not), in addition to the great inconvenience and prejudice necessarily consequent thereon, will very greatly discourage and depress the hearts of those Her Majesty's faithful subjects and fellow members of the Church of England within the colony, who would fain look up to Her Majesty as the great friend and nursing-mother, as well as the earthly head and governor of their common and most holy Church.

And your Memorialist, &c.

London, December 12, 1855. (signed) *C. Melbourne.*

— No. 3. —

(No. 14.)

No. 3.
The Right Hon. H. Labouchere to Governor Sir C. Hotham, 1 February 1856.

Copy of a DESPATCH from the Right Honourable *H. Labouchere* to Governor Sir *Charles Hotham.*

Sir, Downing-street, 1 February 1856.

Her Majesty's Government have had for some time under their consideration the Bill of the Legislature of Victoria, intituled, "An Act to enable the Bishops, Clergy, and Laity of the United Church of England and Ireland in Victoria to provide for the regulation of the affairs of the said Church," transmitted with your despatch of January 8th, 1855, and they have had the advantage of communicating on the subject of it with the Bishop of Melbourne, during his recent visit to this country.

Some objections, directed, however, rather to its policy than its legality, have been raised to certain portions of the measure. But though not insensible to the force of those objections, Her Majesty's Government have deemed it their duty not to interfere with the operation of a measure intended to serve a purpose of which the importance and the exigency appear to be so fully recognised. Her Majesty has, consequently, been advised to give her assent to the Bill; and the necessary Order in Council will accordingly be transmitted without delay.

I will not at present dwell on some minor difficulties which appear not unlikely to arise on the wording of certain provisions of the Bill, having no doubt that if real they will be soon detected, and that the Legislature will apply the remedy. There is, however, one point on which it may be thought that the Bill, by implication, if not in positive words, goes beyond the powers of the Legislature. It is taken for granted, and I have no doubt rightly, that a certain appeal exists in colonies against any wrongful decision of a Bishop. Now, by section 5 of the Bill it is provided, that no regulation of a church assembly which shall affect any right of appeal shall be valid, unless with the consent of the Archbishop of Canterbury, and confirmed by his Grace's order. It may be argued that this, by implication, amounts to an enactment that, with such confirmation, a regulation taking away altogether the right of appeal shall be valid: an authority which I should greatly doubt its being within the power of the colonial Legislature to confer.

Still I do not think that a possible excess of jurisdiction on this or other points of an incidental character ought to prevent the Crown's assent from being given.

It is undoubtedly possible that in the operation of the Act, or in the proceedings of the synod under it, other and more serious difficulties may follow in

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consequence of a real or supposed conflict with those Acts of Parliament and principles of English law which regulate the supremacy of the Crown and other fundamental portions of the constitution of the Church of England. When such difficulties shall occur, and shall be duly notified, it may be expedient that the aid of Parliament should be invoked for the removal of such difficulties. But Her Majesty's Government do not consider that it would be wise to move Parliament to act by anticipation in the matter, considering the danger on the one hand of impairing the connexion between the Church of England in the colony and in the mother country, and, on the other hand, of interfering unduly with the right of local legislation on a domestic subject.

I have, &c.
(signed) *H. Labouchere.*

CHURCH AFFAIRS (CANADA AND VICTORIA).

COPIES OR EXTRACTS of Recent CORRESPONDENCE on COLONIAL CHURCH AFFAIRS, in the Dioceses of the Colonies of Canada and Victoria.

(Mr. Gladstone.)

Ordered, by The House of Commons, to be Printed, 2 April 1856.

131.

Under 3 oz.